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February 29, 2008

By e-filing

Anne K. Quinlan, Esq.
Acting Secretary
Surface Transportation Board
395 E Street, S.W., Suite 1149
Washington, DC 20024

Re: Finance Docket No 35087, *Canadian National Railway Company and Grand Trunk Corporation -- Control -- E.J.&F. West Company*

Dear Ms. Quinlan,

Hereby transmitted is a Notice Of Adoption Of Evidence And Argument And Of Common Position in behalf of Aux Sable Liquid Products, LP and Equistar Chemicals, LP for filing with the Board in the above referenced matter

Very truly yours,

Tom McFarland

Thomas F. McFarland

TMF kl em wps 01/26/08/afab5

cc All parties of record

BEFORE THE
SURFACE TRANSPORTATION

CANADIAN NATIONAL RAILWAY)	
COMPANY AND GRAND TRUNK)	FINANCE DOCKET
CORPORATION - CONTROL - EJ&E)	NO. 35087
WEST COMPANY)	

NOTICE OF ADOPTION OF
EVIDENCE AND ARGUMENT
AND OF COMMON POSITION

EQUISTAR CHEMICALS, LP
8805 North Tabler Road
Morris, IL 60450

AUX SABLE LIQUID PRODUCTS, LP
6155 East US Highway 6
Morris, IL 60450

Protestants

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Attorneys for Protestants

Date Filed. February 29, 2008

BEFORE THE
SURFACE TRANSPORTATION

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NOTICE OF ADOPTION OF
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AND OF COMMON POSITION

EQUISTAR CHEMICALS, LP (Equistar) and AUX SABLE LIQUID PRODUCTS, LP (Aux Sable) hereby provide notice that (1) Equistar adopts the Opposition Statement and Request for Conditions filed by Aux Sable on January 28, 2008; (2) Aux Sable adopts the Petition to Deny, or in the Alternative, Request for Conditions filed by Equistar on January 28, 2008, and (3) Equistar and Aux Sable take a common position in opposition to the proposed acquisition of EJ&E West Company (EJ&E) by Canadian National Railway Company (CN), unless approval of that acquisition is conditioned in a manner that adequately protects their interests

Equistar's large polymers plant and Aux Sable's large liquid natural gas plant are neighbors served by EJ&E over the East Morris Lead Track. The East Morris Lead Track extends from EJ&E's Illinois River Line a short distance south of Minooka, Illinois. The Illinois River Line is a 20-mile line that extends from EJ&E's main line at Walker, Illinois (near Plainfield) to terminus at Goose Lake, Illinois. Between them, Equistar and Aux Sable account for approximately 10,000 carloads of high-rated freight per year. Other shippers on EJ&E in this area of the Illinois River Line add appreciably to that substantial volume of traffic

Notwithstanding that large concentration of rail traffic, the East Morris Lead Track and the Illinois River Line were not shown on the map of EJ&E that was distributed at the environmental scoping sessions that were conducted by the Board's Section of Environmental Assessment. Indeed, the only reference to the Illinois River Line on that map incorrectly stated that the Line extends to "Goose Creek." In order to cure those defects, a map of EJ&E is attached to this Notice as Appendix 1, with the Illinois River Line and East Morris shaded in yellow.

CN and United States Steel Company, the present owner of EJ&E, arranged for the preservation of rail competition for a similar concentration of US Steel rail traffic at Gary, Indiana, by carving out of the acquisition an eastern segment of EJ&E, to be owned and operated by US Steel affiliate, Gary Railroad Company. US Steel was thus assured of direct connections to Norfolk Southern Railway Company and CSX Transportation, Inc., in addition to CN. Having a similar concentration of traffic, Equistar, Aux Sable and other shippers in the East Morris area of the Illinois River Line should also be provided with assurance of neutral access to multiple connections of EJ&E.

Unless appropriately conditioned, the proposed CN acquisition of EJ&E is objectionable to Equistar and Aux Sable in major respects, i.e.

- (1) **Loss of rail competition.** Whereas EJ&E currently provides economic and non-discriminatory access to multiple Class I and Shortline rail carriers as a neutral regional carrier, EJ&E under CN control may well be priced and operated to favor CN routes. CSX does not effectively compete with EJ&E at East Morris because CSX routings to or from East Morris are not efficient. *See Union*

Pacific/Southern Pacific Merger, 1 S.T.B. 233, 427-429 (1996) (conditions imposed for the benefit of Lake Charles, LA shippers because KCS is not an effective competitor for their traffic).

- (2) **Loss of rail service.** Whereas EJ&E currently provides highly-responsive, dedicated rail service to meet all service needs of East Morris shippers, EJ&E under CN control may well reduce the quantity and quality of that local rail service as a result of favoring through rail service over the EJ&E main line. CN's commitment to retain local EJ&E service is only short-term, and
- (3) **Loss of railcar storage capacity.** Whereas EJ&E currently provides essential trackage for railcar storage at East Joliet Yard, EJ&E may well eliminate that required storage capacity. When CN acquired Wisconsin Central Railroad in 2001, CN terminated many track leases of Wisconsin Central shippers. The Board has conditioned rail consolidation to protect essential storage-in-transit in the plastics industry. *See Union Pacific/Southern Pacific Merger, supra*, 1 S.T.B. at 426-427

WHEREFORE, the Board and the parties are hereby notified that Equistar and Aux Sable have adopted each other's evidence and argument filed in this proceeding on January 28, 2008, and that Equistar and Aux Sable jointly oppose the proposed CN acquisition of EJ&E unless approval of that acquisition is conditioned in a manner that adequately protects their interests

Respectfully submitted,

EQUISTAR CHEMICALS, LP
8805 North Tabler Road
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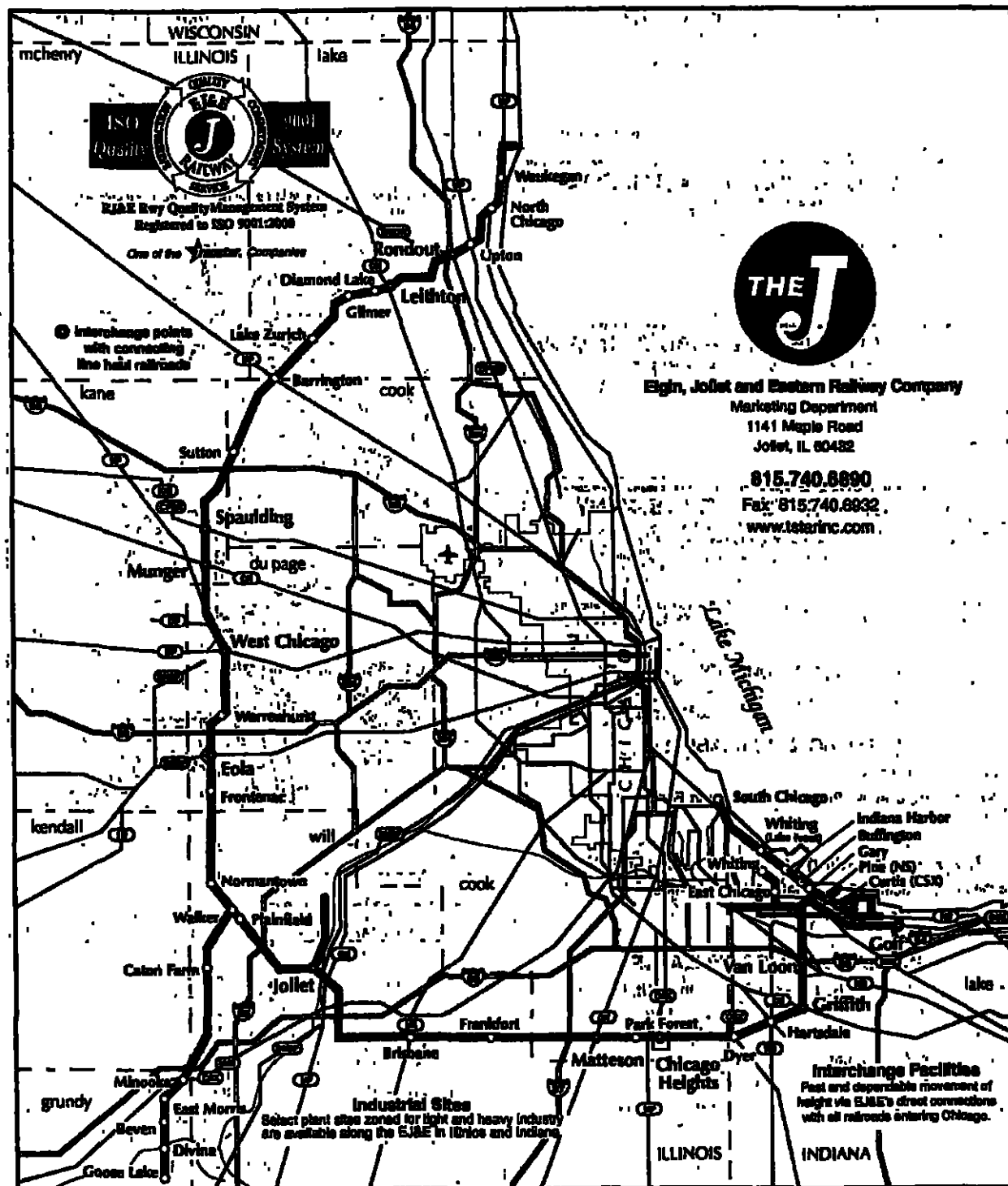
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Attorneys for Protestants

Date Filed: February 29, 2008

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CERTIFICATE OF SERVICE

I hereby certify that on February 29, 2008, I served the foregoing document, Notice Of Adoption Of Evidence And Argument And Of Common Position, by overnight mail on counsel for Applicants, i e., Paul A. Cunningham, David A. Hirsh, and James M. Gunivan, Harkins Cunningham, 1700 K Street, N W , Suite 400, Washington, DC 20006-3804, and by first-class, U S mail, postage prepaid, on all other parties of record

Thomas F. McFarland

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